

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

VANTAGE HOSPITALITY GROUP, INC.,
FORMERLY KNOWN AS, BEST VALUE
INN BRAND MEMBERSHIP, INC., a
Florida corporation,

Case No. 1:06-CV-15364

Honorable Thomas L. Ludington

Plaintiff,

v.

THE WATERBURY GROUP, INC., DBA
THE ROYAL CREST INN, a Michigan
Corporation,

Defendant.

**PLAINTIFF'S EX PARTE MOTION FOR ISSUANCE OF AN ORDER TO
SHOW CAUSE WHY A BENCH WARRANT FOR
THE ARREST OF JOHN KRESS SHOULD NOT ENTER**

Plaintiff Vantage Hospitality Group, Inc. ("Vantage"), by its attorneys, Miller, Canfield, Paddock and Stone, P.L.C., moves ex parte pursuant to MCR 3.606(A)(1) that the Court issue an order to show cause why a bench warrant for the arrest of John Kress should not enter for his failure to comply with the court order to appear for a creditor's exam with documents. This motion is based upon the affidavit of Douglas W. Eyre, and the following:

1. On November 30, 2007, John Kress was served with a subpoena ordering him to appear for a creditor's exam. The creditors' exam was scheduled for December 14, 2007. A copy of the subpoena is attached hereto as Exhibit A.
2. John Kress failed to appear for the December 14, 2007 creditor's exam.
3. As set forth in Mr. Eyre's affidavit, John Kress has failed to comply with his obligation under the subpoena by failing to appear for the creditor's exam with the necessary documents.

4. John Kress has shown a complete disregard of this Court's authority by refusing to comply with the subpoena to appear for the creditor's exam and failing to produce documents.

5. MCR 3.606(A) provides that for a contempt committed outside the immediate view and presence of the court, on a showing on ex parte motion supported by affidavit, the Court shall either (1) order the accused to show cause why they should not be punished for misconduct or (2) issue a bench warrant for their arrest.

6. An Order to Show Cause why a bench warrant should not be issued for the arrest of John Kress, in the form attached as Exhibit B, should be entered by the Court.

WHEREFORE, Plaintiff Vantage Hospitality Group, Inc. prays that the Court issue a bench warrant for the arrest of John Kress for failure to comply with the subpoena.

s/Douglas W. Eyre
Douglas W. Eyre
Miller, Canfield, Paddock & Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, MI 48226
(313) 963-6420
eyre@millercanfield.com
(P63068)

DATED: December 18, 2007.

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2007, I electronically filed the foregoing document with the Clerk of the Court using the ECF system.

s/Douglas W. Eyre
Douglas W. Eyre
Miller, Canfield, Paddock & Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, MI 48226
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AFFIDAVIT OF DOUGLAS W. EYRE

STATE OF MICHIGAN)
)SS
COUNTY OF WAYNE)

I, Douglas W. Eyre, being first duly sworn, depose and state as follows:

1. I am an attorney with Miller, Canfield, Paddock and Stone, PLC.
2. I prepared the Motion and the statement of facts contained therein are true to the best of my knowledge.
3. If sworn to testify as a witness in the above-captioned case, I am competent to testify to the facts stated in the Plaintiff's Ex Parte Motion For an Order to Show Cause why a Bench Warrant for the Arrest Of John Kress should not Enter.

4. Further affiant sayeth not.



Douglas W. Eyre

Subscribed and sworn to before me.
this 12/18/07 day of December 2007

Sandra L. Baldwin
SANDRA L. BALDWIN Notary Public
St. Clair County, Michigan
My Commission Expires: 1-27-11

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